

**(2012) 10 NCDRC CK 0019**

**In the National Consumer Disputes Redressal Commission**

S. Parameshwar

APPELLANT

Vs

CHIEF POST MASTER

RESPONDENT

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**Date of Decision :** 10-10-2012

**Acts Referred:**

**Citation :** 2012 0 NCDRC 633

**Hon'ble Judges :** K.S.Chaudhari , Suresh Chandra J.

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**Judgement**

1. PETITIONER in this case was the complainant before the District Forum and the respondent was the opposite party. The petitioner retired from State Government 's Service on 30.11.2006 and requested his employer to make arrangement for the payment of Rs.50,127/- being the loan amount due to the Bangalore Zilla Padavidhara Co-operative Society Ltd., Bangalore out of his pensionary benefits. The employer, i.e., the Commissioner for Sericulture in turn wrote to the Accountant General who authorized the District Treasury Officer to prepare the cheque in favour of the concerned Society on behalf of the petitioner from out of his pension payment. Accordingly a cheque for Rs.50,127/- was dispatched on 16.8.2007 vide speed post by the District Treasury Officer. However, the Society did not receive the cheque and hence the Society called upon the petitioner to settle his outstanding loan immediately. The petitioner after obtaining the details of the dispatch of the cheque from the Treasury Office, went to the post office and lodged a written complaint on 15.11.2008. According to him the complaint was not accepted. The petitioner again gave a written complaint on 13.5.2008 but the opposite party informed the petitioner that the speed post cover was lost in transit. Thereupon the petitioner requested the Treasury Officer, Bangalore to prepare a fresh cheque for Rs.50,127/-. However, since the loan amount had not been repaid, the aforesaid Society passed an order under rule 36 of the Karnataka Co-operative Society Act 1959 and confiscated all the valuables from the complainant 's house. The fresh cheque as per the request of the petitioner was prepared by the Treasury Officer, Bangalore on 25.5.2009 and was handed over to the Society on 26.5.2009. In the meanwhile, the petitioner was made to pay a total amount of Rs.67,611/-

instead of Rs.50,127/- to the Society for retrieving the valuables confiscated earlier by the Society. The petitioner, therefore, filed a consumer complaint praying for award of damages on account of deficiency in service on the part of opposite party/respondent and also for payment of Rs.17,484/- being the excess amount which he had been made to pay to the Society on account of default of his dues for no fault on his part.

2. ON being noticed, the opposite party resisted the complaint and filed his written objections denying the allegations and deficiency in service. While accepting the fact that the speed post cover was lost in transit, it was pleaded by the opposite party/respondent that either the sender of the cheque or the addressee could claim eligible compensation as permissible under the rules of the department beyond which the respondent authority was not liable for any damages in view of the exemption provided for under section 6 of the Indian Post Office Act, 1898. The OP also denied any deficiency in service on the part of the department. After hearing the parties and considering the evidence placed before it, the District Forum vide its order dated 9.2.2010 dismissed the complaint on the ground that the complainant/petitioner had not made any allegation of fraud against the OP/respondent and hence in view of the protection provided to the OP/respondent under section 6 of the Act of 1898, the relief claimed by the complainant/petitioner could not be granted. Aggrieved by the aforesaid order of the District Forum, the petitioner filed an appeal before the Karnataka State Consumer Disputes Redressal Commission, Bangalore ( "State Commission " in short) which was dismissed by the State Commission vide its impugned order dated 26.8.2010. It is in these circumstances that the petitioner has filed the present revision petition challenging the order of the State Commission.

In spite of issue of notice for appearance to him, the petitioner has not appeared and has sent a letter dated 18.9.2012 submitting that being a retired person, he is unable to come to Delhi and hence he has requested this Commission to litigate and decide the matter in his absence.

3. ACCORDINGLY , we have perused the record placed before us by the petitioner including the orders of the Fora below. While dismissing the appeal of the petitioner and upholding the order of the District Forum, the State Commission has recorded the following reasons in support of its impugned order:- "6. The LC for the respondent has produced one citation reported in 11(1995) CPJ 230(NC) Senior Post Master, GPO, Pune V/s Akhil Bharatiya Grahak Panchayat and Another where in the National Commission has held that Section 6 of the Indian Post office Act. 1898 bars the claim of the complainant. There is no allegation that the article was lost by any fraudulent or wilful act or default of any of the official of the post office. Unless these are alleged and proved by the complainant he is not entitled to claim relief by way of compensation for loss, mis-delivery or delay or damage to any postal article in the course of its transmission. It has held that Section 3 of the CP Act provides additional remedy for the redressal of a grievance, but if the remedy is barred under any other law, no relief can be

granted under the Act. Section 6 of the Indian Post Office Act, which reads as follows: "The Government shall not incur any liability by reasons of the loss, misdelivery or delay or damage to any postal article in course of transmission by post except in so far as such liability may in express be undertaken by the central government as here in above provided and no officer of the Post Office shall incur any liability by reason of any such loss, misdelivery, delay of damage, unless he has caused the same fraudulently or by his willful act or default ".

7. Admittedly, in the instant case, there is no allegation that the article was lost by any fraudulent or willful act or default of any of the official of the Post Office. Unless these are alleged and proved by the Appellant/Complainant, he is not entitled to claim relief by way of compensation for loss, misdelivery or delay or damage to any postal article in the course of its transmission. 8. In view of the above decision of the National commission, we are of the opinion that the decision rendered by the DF as per its Impugned order is proper and correct. It does not call for interference. This appeal is liable to be dismissed. "

We agree with the view taken by the State Commission and the District Forum and do not see any merit in the revision petition which would justify our interference with the impugned orders. The revision petition, therefore, stands dismissed in limine with no order as to costs.